

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1468

INTRODUCER: Education Committee and Senator Galvano

SUBJECT: Education

DATE: April 26, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	Fav/CS
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1468 codifies responsibilities for the Auditor General, extends the date by which Florida Polytechnic University must meet statutory criteria, expands the authority of the Commissioner of Education, and establishes the Early Childhood Music Education Incentive Pilot Program. Specifically, the bill:

- Codifies the requirement for the Auditor General to conduct financial audits of accounts and records of the Florida School for the Deaf and the Blind.
- Codifies the December 31, 2017, deadline by which the Florida Polytechnic University must meet the criteria established in law relating to accreditation; development of science, technology, engineering, and mathematics programs; and operational framework.
- Authorizes the Commissioner of Education to coordinate, in the event of an emergency, with school districts, Florida College System institutions, and the satellite offices of the Division of Vocational Rehabilitation and the Division of Blind Services to assess their needs for resources to enable such entities to reopen as soon as possible after considering the health, safety, and welfare of students and clients.
- Establishes the Early Childhood Music Education Incentive Pilot Program in the Department of Education for a period of three school years to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2.

The bill also expands educational options and services to prepare students for higher education and entry into the workforce. Specifically, the bill:

- Repeals the eligibility criteria for students to participate in virtual instruction programs.
- Removes the requirement that student enrollment in a virtual instruction program be limited to a program provided by a school district or virtual charter school operated by the district in which the student resides.
- Deems participants in on-the-job training activities administered by the Division of Blind Services (DBS) and the Division of Vocational Rehabilitation (VR) as employees of the state for purposes of workers' compensation coverage.

The bill has an indeterminate fiscal impact on state expenditures. The estimated fiscal impact to the Florida Education Finance Program (FEFP) to fund the expansion of student eligibility for public virtual education is expected to be absorbed within the FEFP calculation and is estimated at \$4,363,075. The Division of Risk Management expects to incur additional claim costs for covering DBS and VR on-the-job training participants.

The bill takes effect on July 1, 2017.

II. Present Situation:

Auditor General

The Auditor General (AG) serves at the pleasure of the Legislature to audit records and perform related duties as prescribed by law.¹ The AG performs his or her duties independently but under the general policies established by the Legislative Auditing Committee (LAC).^{2,3} The AG is required to annually conduct financial audits⁴ of:

- State government;
- All state universities and state colleges;
- The accounts and records of all district school boards in counties with populations of fewer than 150,000, and the Florida School for the Deaf and the Blind;⁵ and
- Once every 3 years, the accounts and records of all district school boards in counties that have populations of 150,000 or more.⁶

¹ Art. III, s. 2, Fla. Const. *See also* s. 11.42(2), F.S.

² The Legislative Auditing Committee may take under investigation any matter within the scope of an audit, review, or examination completed or being conducted by the Auditor General or the Office of Program Policy Analysis and Government Accountability, and, in connection with such investigation, may exercise the powers of subpoena by law vested in a standing committee of the Legislature. Section 11.40(1), F.S.

³ Section 11.45(2)(k), F.S.

⁴ "Financial audit" means an examination of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards as adopted by the Board of Accountancy. When applicable, the scope of financial audits shall encompass the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other applicable federal law. Section 11.45(1)(c).

⁵ The Florida School for the Deaf and the Blind was added by the bill implementing the 2016-2017 General Appropriations Act. Sec. 5, ch. 2016-62, L.O.F.

⁶ 11.45(2)(b)-(e), F.S.

Each required financial audit, when practicable, must be completed within nine months following the end of each audited fiscal year of the state agency or political subdivision.⁷

The AG must notify the LAC of any local governmental entity, district school board, charter school, or charter technical career center that does not comply with reporting requirements relating to annual financial audits.⁸

Florida School for the Deaf and Blind

The Florida School for the Deaf and the Blind (FSDB) is a state-supported residential public school for hearing-impaired and visually impaired students in preschool through 12th grade.⁹ The FSDB is a component of the delivery of public education within Florida's K-20 education system and is funded through the Department of Education (DOE or department).¹⁰

The FSDB operates under the leadership and direction of its board of trustees (board).¹¹ The board adopts rules, subject to the approval of the State Board of Education (SBE), as it considers necessary to operate the FSDB in conjunction with the rules of the SBE.¹²

Board authority includes, but is not limited to:

- Provide for the proper keeping of accounts and records and for budgeting of funds.
- Enter into contracts.
- Receive gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity.
- Sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students; and invest¹³ such moneys.
- Approve and administer an annual operating budget in accordance with law.¹⁴

The FSDB was appropriated \$50,188,933¹⁵ for operations \$9,074,268¹⁶ for fixed capital outlay in the 2016-17 fiscal year.

⁷ Section 11.45(4), F.S. Or lesser time provided in law, concurrent resolution, or the Legislative Auditing Committee; however, the AG may postpone audits or other engagements based on an assessment of resources. *Id.*

⁸ Section 11.45(7)(a), F.S. The criteria for financial audit reports are in s. 218.39, F.S.

⁹ Section 1002.36(1), F.S.

¹⁰ Section 1002.36(1), F.S. The Legislature appropriates fixed capital outlay moneys to the School on an annual basis from the Public Education Capital Outlay and Debt Service Trust Fund pursuant to Article XII, Section 9(a)(2) of the State Constitution.

¹¹ Section 1002.36(4), F.S. The School board of trustees consists of seven members who are appointed by the Governor and confirmed by the Senate. One of its members must be a blind person, and one must be a deaf person. Each member is required to have been a Florida resident for at least ten years and the term of office for each member is four years.

¹² Section 1002.36(4)(c), F.S.

¹³ In securities enumerated under s. 215.47(1), (2)(c), (3), (4), and (10), and in The Common Fund, an Investment Management Fund exclusively for nonprofit educational institutions.

¹⁴ See sections 1011.56 and 1011.57, F.S.

¹⁵ Specific Appropriation 113, General Appropriations Act, ch. 2016-66, L.O.F.

¹⁶ Specific Appropriation 26, General Appropriations Act, ch. 2016-66, L.O.F.

Worker's Compensation Coverage

Florida law requires organizations, including the Division of Vocational Rehabilitation (VR) and the Division of Blind Services (DBS),¹⁷ to cooperate to better assist individuals with disabilities in the workplace.¹⁸ The DBS and the VR each provide community-based work experiences to their adult and youth clients.¹⁹

Generally, employers are required to provide medical and indemnity benefits to a worker who is injured due to an accident arising out of and during the course of employment.²⁰ For such injuries, an employer is responsible for providing medical treatment,²¹ and compensation in the event of employee disability or death.²² Specific employer coverage requirements are based on the type of industry, number of employees, and entity organization.²³

Controlled Open Enrollment

Controlled open enrollment is a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential school choice as a significant factor.²⁴ School districts have the option to offer controlled open enrollment within the public schools in addition to existing choice programs²⁵ such as virtual instruction programs, magnet schools, alternative schools, special programs, collegiate high school programs, advanced placement, and dual enrollment.²⁶ The district school board must adopt by rule and post on the district website a controlled open enrollment plan.²⁷

Virtual Instruction

A student is eligible to participate in the Florida Virtual School (FLVS) or in a virtual instruction program offered by the school district or by a virtual charter school operated in the district in which the student resides²⁸ if he or she meets one of the following:²⁹

¹⁷ Both divisions are divisions within the Florida Department of Education. Section 20.15(3), F.S.

¹⁸ Section 413.80, F.S.

¹⁹ Vocational Rehabilitation, *2015-2016 Annual Report*, at 6, available at <http://www.rehabworks.org/docs/AnnualReport16.pdf> and Florida Department of Education, Division of Blind Services, *Employer Services*, <http://dbs.myflorida.com/Employer/index.html> (last visited March 31, 2017).

²⁰ Section 440.09(1), F.S.

²¹ Section 440.13, F.S.

²² Section 440.15, F.S.

²³ Division of Workers' Compensation, *Coverage Requirements*, <http://www.myfloridacfo.com/division/wc/Employer/coverage.htm#.WLC13vkrKCg> (last visited March 31, 2017).

²⁴ Section 1002.31(1), F.S.

²⁵ Section 1002.20(6)(a), F.S.

²⁶ Section 1002.31(2)(a), F.S.

²⁷ *Id.* at (3)

²⁸ Virtual instruction programs are included as options under provisions relating to "controlled open enrollment." Section 1002.31(2)(a), F.S.

²⁹ Sections 1002.37(8), 1002.45(5), and 1002.455(2), F.S. These requirements apply to FLVS part-time instruction in kindergarten through grade 5 (section 1002.37(8)(a), F.S.); a virtual instruction program provided

- The student spent the prior school year in attendance at a public school in the state.
- The student is a dependent child of a member of the United States Armed Forces who transferred within the last 12 months to this state from another state or from a foreign country.
- The student was enrolled during the prior school year in a virtual instruction program³⁰ or a full-time FLVS program.³¹
- The student has a sibling who is currently enrolled in a virtual instruction program and the sibling was enrolled in that program at the end of the prior school year.
- The student is eligible to enter kindergarten or first grade.

The student is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the FLVS.

Florida Polytechnic University

In 2012,³² the Legislature created Florida Polytechnic University (FPU) as a state university.³³ By December 31, 2017,³⁴ FPU must:

- Achieve accreditation from the Commission on Colleges of the Southern Association of Colleges and Schools;
- Initiate the development of the new programs in the fields of science, technology, engineering, and mathematics;
- Seek discipline-specific accreditation for programs;
- Attain a minimum FTE of 1,244, with a minimum 50 percent of that FTE in the fields of science, technology, engineering, and mathematics and 20 percent in programs related to those fields;
- Complete facilities and infrastructure, including the Science and Technology Building, Phase I of the Wellness Center, and a residence hall or halls containing no fewer than 190 beds; and
- Have the ability to provide, either directly or where feasible through a shared services model, administration of financial aid, admissions, student support, information technology, and finance and accounting with an internal audit function.

by the school district or by a virtual charter school operated in the district (section 1002.45(5), F.S.); school district operated part-time or full-time kindergarten through grade 12 virtual instruction programs for students enrolled in the school district (section 1002.455(3)(a), F.S.); full-time virtual charter school instruction (*Id.* at (3)(b)); and virtual courses offered in the course code directory to students within the school district or to students in other school districts throughout the state (*Id.* at (3)(c)).

³⁰ Section 1002.45, F.S.

³¹ Section 1002.37(8)(a), F.S.

³² Sec. 1, ch. 2012-129, L.O.F.

³³ Section 1000.21(6), F.S. Florida Polytechnic University is one of the 12 state universities in Florida. The other state universities are the University of Florida, Florida State University, Florida Agricultural and Mechanical University, the University of South Florida, Florida Atlantic University, the University of West Florida, the University of Central Florida, The University of North Florida, Florida International University, Florida Gulf Coast University, and New College of Florida.

³⁴ The date by which Florida Polytechnic University must fulfill those criteria was modified from December 31, 2016 to December 31, 2017, by section 30 the implementing bill to the 2016-2017 General Appropriations Act.

Commissioner of Education

The Commissioner of Education (Commissioner) is appointed by the State Board of Education (SBE)³⁵ and serves as the Executive Director of the DOE.³⁶ The Commissioner is the chief educational officer of the state, and is responsible for giving full assistance to the SBE in enforcing compliance with the mission and goals of the K-20 education system except for the State University System.³⁷ The commissioner's office operates all statewide functions necessary to support the State Board of Education, including strategic planning and budget development, general administration, assessment, and accountability.³⁸

The DOE is responsible to coordinate, when necessary, the use of educational facilities during emergency activations among federal and state agencies, local school districts, colleges and universities.³⁹ The DOE also serves as the primary liaisons in coordinating all phases of emergency response from pre-disaster planning through post disaster recovery of educational facilities.⁴⁰

The DOE has a process in place to gather information from superintendents, Florida College System institution presidents, VR directors, and Blind Services directors when an emergency situation has occurred and a process to report the needs.⁴¹ DOE staff members are assigned to serve as contacts (called "Emergency Buddies") to all school districts and colleges.⁴² In an emergency situation, the Commissioner activates the Emergency Buddies for the affected areas of the state. The Emergency Buddies contact their assigned districts and colleges and collect specific information.⁴³ The headquarters offices for the Divisions of Blind Services and Vocational Rehabilitation perform the same function for their offices⁴⁴. The information from each specified education sector is provided to the department's emergency management staff to be compiled into a summary report for the Commissioner.⁴⁵

Early Childhood Music Education Incentive Pilot Program

Florida's state standards for visual and performing arts establish specific curricular content and include distinct grade level expectations for the core content knowledge and skills that a student is expected to acquire by each grade level from kindergarten through grade 5.⁴⁶

³⁵ Art. IX, Sec. 2, Fla. Const.

³⁶ Section 20.15(2), F.S.

³⁷ Section 1001.10(1), F.S.

³⁸ Section 1001.10(2), F.S.

³⁹ Florida Division of Emergency Management, *The State of Florida 2016 Comprehensive Emergency Management Plan, 2016 Draft Revision*,

[http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20\(COMPLETE%20FINAL%20DRAFT\).pdf](http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20(COMPLETE%20FINAL%20DRAFT).pdf), at ESF 6 Appendix, p. 10.

⁴⁰ *Id.*

⁴¹ Email, Florida Department of Education (March 17, 2017).

⁴² *Id.*

⁴³ Email, Florida Department of Education (March 17, 2017).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Section 1003.41(2)(e), F.S.

Current law⁴⁷ requires the Commissioner of Education to publish an annual report that describes student access and participation in fine arts courses and provides information about educators who instruct fine arts, facilities where the instruction is taking place, and the manner in which the curricular content is provided. The report must be posted on the DOE's website and updated annually.⁴⁸

According to data from the 2015-2016 annual report,⁴⁹ the number of K-2 students enrolled statewide in music education programs as a percentage of total K-2 student enrollment has decreased. In the 2011-2012 school year, there were 575,262 K-2 students enrolled in music education programs (87 percent). By the 2015-2016 school year, K-2 student enrollment in music education programs had decreased to 513,648 (82 percent).

In some school districts, there is no reported K-2 student enrollment in music education programs.⁵⁰

III. Effect of Proposed Changes:

The bill codifies responsibilities for the Auditor General, extends the date by which Florida Polytechnic University must meet statutory criteria, expands the authority of the Commissioner of Education, and establishes the Early Childhood Music Education Incentive Pilot Program.

Auditor General (Section 1)

Section 1 codifies the requirement for the Auditor General to conduct financial audits of accounts and records of the Florida School for the Deaf and the Blind.

Worker's Compensation Coverage (Sections 2 and 3)

Sections 2 and 3 amend ss. 413.011 and 413.209, F.S., respectively, to require that individuals who participate in an on-the-job training activity through the DBS or the VR be deemed an employee of the state for purposes of workers' compensation coverage.

Virtual Instruction (Section 5, 6, 7, 8, 11, 12, and 13)

Section 5 amends s. 1002.31, F.S., to expand available controlled open enrollment options to include virtual charter schools and district virtual programs.

⁴⁷ Section 1003.4995, F.S.

⁴⁸ *Id.*

⁴⁹ The Florida Senate staff analysis of Florida Department of Education, Florida's PK-20 Education Information Portal, *Fine Arts*, <https://edstats.fl DOE.org/SASWebReportStudio/openRVUrl.do?rsRID=SBIP%3A%2F%2FMETASERVER%2FARM%2FPERA%2FEIAS%2FFINE+ARTS%2FWEB+REPORTS%2FFine+Arts+Enrollment.srx%28Report%29> (last visited April 4, 2017)

⁵⁰ School districts with no reported student enrollment include Dixie, Franklin, Gilchrist, Glades, Gulf, Hamilton, and Lafayette. *Id.*

Section 8 repeals s. 1002.455, F.S., to eliminate the eligibility requirements for student participation in virtual instruction through the Florida Virtual School and in virtual instruction programs. As a result, all students enrolled in public or private schools, or in a home education program are eligible to participate in virtual instruction.

Additionally, section 7 amends s. 1002.45, F.S., to modify student participation requirements related to virtual instruction program. Specifically, this section:

- Removes the requirement that student enrollment in a virtual instruction program be limited to a program provided by a school district or virtual charter school operated by the district in which the student resides. As a result, the bill may allow a student to enroll in virtual instruction provided by any school district or virtual charter school.
- Allows a student enrolled in a virtual instruction program or virtual charter school to take state assessment tests in the district in which the student enrolls, in addition to where the student resides. This section also specifies that if requested by the provider, the district of residence must provide the student with access to the district's testing facilities.

Sections 6, 11, 12, and 13 conform cross-references and make technical changes to ss. 1002.33, 1002.37, 1003.498, and 1011.62, F.S., respectively, to account for the repeal of s. 1002.455, F.S.

Florida Polytechnic University (Section 10)

Section 10 codifies the December 31, 2017, deadline by which the Florida Polytechnic University must meet the criteria established in law.⁵¹

Commissioner of Education (Section 4)

Section 4 expands the Commissioner of Education's (Commissioner) authority and responsibility for supporting all sectors during an emergency and will be helpful in securing necessary information in a timely manner before, during, and after any emergency situation.⁵² This section emphasizes that all sectors should work with the Commissioner to assess needs and direct resources needed to return the facilities to operation as quickly as possible.⁵³

Early Childhood Music Education Incentive Pilot Program (Section 9)

Section 9 establishes the three-year Early Childhood Music Education Incentive Pilot Program (pilot program) beginning with the 2017-2018 school year to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2.

This section establishes school district eligibility requirements, which include the superintendent certifying to the Commissioner that the school district has established a comprehensive music education program that:

- Includes all students at the school enrolled in kindergarten through grade 2.

⁵¹ Section 1004.345, F.S.

⁵² Email, Florida Department of Education (March 17, 2017).

⁵³ *Id.*

- Is staffed by certified music educators.
- Provides music instruction for at least 30 consecutive minutes 2 days a week.
- Complies with class size requirements under s. 1003.03.
- Complies with the department's standards for early childhood music education programs for students in kindergarten through grade 2.

Section 9 requires the Commissioner to select school districts for participation in the pilot program, subject to legislative appropriation, based on the school district's proximity to the University of Florida (UF) and needs-based criteria established by the State Board of Education (SBE). Selected school districts must annually receive \$150 per full-time equivalent student in kindergarten through grade 2 who is enrolled in a comprehensive music education program. This section provides that each selected school district must annually certify, in a format prescribed by the department, that the school district continues to meet initial eligibility requirements. If a selected school district fails to provide the annual certification for a fiscal year, the school district must return all funds received through the pilot program for that fiscal year.

Section 9 requires the UF's College of Education to evaluate the effectiveness of the pilot program by measuring student academic performance and the success of the program. The evaluation must include, but is not limited to, a quantitative analysis of student achievement and a qualitative evaluation of students enrolled in the comprehensive music education programs.

Section 9 authorizes the SBE to adopt rules to administer the pilot program.

The bill takes effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under this bill, private sector entities may experience a cost savings by not having to provide workers compensation coverage for a person participating in a Division of Blind Services (DBS) or Vocational Rehabilitation (VR) on-the-job-training.

C. Government Sector Impact:

The Division of Risk Management expects to incur additional claim costs for covering DBS and VR on-the-job training participants.⁵⁴

The bill repeals s. 1002.455, F.S., relating to student eligibility for K-12 virtual instruction. These changes will open various virtual education options that are not currently available to students who did not attend public school in the prior year. The estimated fiscal impact to the Florida Education Finance Program (FEFP) to fund the expansion of student eligibility for public virtual education is expected to be absorbed within the FEFP calculation and is estimated at \$4,363,075.

The bill authorizes the Commissioner of Education to select school districts to participate in the Early Childhood Music Education Incentive Pilot Program. Those participating districts must annually receive \$150 per full-time equivalent student in kindergarten through grade 2 enrolled in a comprehensive music program contingent upon a legislative appropriation for the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 413.011, 1001.10, 1002.31, 1002.33, 1002.37, 1002.45, 1003.498, 1004.345, and 1011.62.

The bill creates the following sections of Florida Statutes: 413.209 and 1003.481.

This bill repeals section 1002.455 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS /CS by Appropriations on April 25, 2017:

⁵⁴ Department of Financial Services, *Legislative Bill Analysis for SB 868* (February 22, 2017).

The committee substitute:

- Requires that individuals who participate in an on-the-job training activity through the DBS or the VR be deemed an employee of the state for purposes of workers' compensation coverage.
- Repeals s. 1002.455, F.S., to eliminate the eligibility requirements for student participation in virtual instruction through the Florida Virtual School and in virtual instruction programs. As a result, all students enrolled in public or private schools, or in a home education program are eligible to participate in virtual instruction.
- Modifies student participation requirements related to virtual instruction program. Specifically, the committee substitute:
 - Removes the requirement that student enrollment in a virtual instruction program be limited to a program provided by a school district or virtual charter school operated by the district in which the student resides. As a result, the bill may allow a student to enroll in virtual instruction provided by any school district or virtual charter school.
 - Allows a student enrolled in a virtual instruction program or virtual charter school to take state assessment tests in the district in which the student enrolls, in addition to where the student resides. This section also specifies that if requested by the provider, the district of residence must provide the student with access to the district's testing facilities.

CS by Education on April 3, 2017

The committee substitute adds a provision to the bill, establishing the Early Childhood Music Education Incentive Pilot Program (pilot program) as a 3-school year program in the Department of Education to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2. Specifically, the committee substitute:

- Provides eligibility criteria for school districts to participate in the pilot program.
- Requires the Commissioner of Education to select school districts based on specified criteria.
- Includes a provision to provide selected school districts \$150 annually per FTE enrolled in the program, subject to legislative appropriation.
- Requires a participating school district to annually certify eligibility for the program.
- Requires the University of Florida's College of Education to evaluate the effectiveness of the program.
- Authorizes the State Board of Education to adopt rules to administer the pilot program provisions.